

Subject Uniform Trust Code; Changes and Updates

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Overview

This bill primarily provides changes and updates to the Trust Code, chapter 501C; as well as some small changes to the rule against perpetuities (chapter 501A); powers of appointment (chapter 502); and the Probate Code (chapter 524).

Summary

Section	Description
1	When noninvested interest, powers of appointment are invalid; exceptions. Expands the time in which an interest must vest to be valid from 90 years to up to 500 years, unless a different number of years is included in the trust document, and this applies to trusts created on or after the date this law goes into effect. These trusts are sometimes called Dynasty Trusts and their terms last 360 to 1,000 years, or in perpetuity, in other states.
2	Representation; basic effect. Clarifications related to representatives who act on behalf of another.
3	Representation by holder of a power of appointment. Technical and clarifying changes.
4	Evidence of oral trust. Clarifying when an oral intent can apply for real property or a testamentary trust which has requirements for writing in law.
5	Modification or termination of noncharitable irrevocable trust by consent. Clarifying when an agent can modify the terms of a trust.
6	Modification or termination of uneconomic trust. Raises the value at which a trustee can choose to terminate a trust that is not considered large enough to justify the cost of administering the trust.

Section	Description
7	Revocation or amendment of revocable trust. Clarifying when an agent can modify the terms of a trust.
8	Limitations on action contesting validity of revocable trust; distribution of trust property. Clarifying the time limits related to commencing a judicial proceeding related to the validity of a trust.
9	Accepting or declining trusteeship. Clarifies time to determine if a person is considered to have rejected a trusteeship.
10	Definitions. Clarifies existing definitions in the Trust Code.
11	Powers of investment trust advisor. Clarifies the power of an investment trust advisor.
12	Powers of distribution trust advisor. Clarifies and extends the powers of the distribution trust advisor.
13	Powers of trust protector. Clarifies the powers of the trust protector.
14	Duty and liability of directing party. Clarifies the role and powers of a directing party.
15	Duty and liability of excluded fiduciary. Clarifying duty of an “excluded fiduciary” which is a person who the trust has limited in their authority through the governing documents. This section also allows the excluded fiduciary to act as an interested party to petition the court under certain sections of the Trust Code.
16	Duty to inform excluded fiduciary and directing parties. Provides that the excluded fiduciary must keep the directing party (or parties) up to date with information on the duties they perform.
17	Office of directing party. Provides that many of the laws related to the trustee apply to a directing party, including compensation, removal, resignation, and successor appointments.

Section	Description
18	Effect. Clarifies the effect of relying on a certificate of trust that is recorded related to real property in a trust.
19	Affidavit of trustee. Allows an affidavit of trustee to be used to transfer personal property through a statutory form used for real property.
20	Expenses. Makes technical and clarifying changes.
21	Decedent's estate. Clarifies that a decedent's estate includes any trust that was revocable by the decedent at the time of the decedent's death.
22	Definitions. Clarifies the definition of "appointed trust."
23	Savings provision. Provides a way forward when attempting to decant a trust (create a new trust using the assets of an existing trust) when a portion of the appointed trust instrument doesn't comply with the statute.
24	Authorized trustee with unlimited discretion. Provides and clarifies the powers of an authorized trustee with unlimited discretion related to decanting a trust.
25	Authorized trustee without unlimited discretion. Clarifies the beneficiaries when an authorized trustee without unlimited discretion is decanting a trust.
26	Requirements for exercise of power to appoint; notice. Clarifying and technical changes, and requires information related to the trust to be sent to any person who would be considered an owner of the trust under the Internal Revenue Code, when the trust is being decanted, and provides additional requirements for that notice.
27	Prohibitions. Clarifies when a trustee can decant a trust related to the liability of another fiduciary and tax regulations.

Section	Description
28	Compensation; commissions. Removes a prohibition for a trustee related to receiving any paying commission or compensation for decanting a trust.
29	Parent barred from inheriting in certain circumstances. Prohibits a parent from inheriting from a child when the child died after reaching the age of 18, and during the child's minority the parental rights of a parent could have been terminated under the laws of the state and the parent and child were estranged.
30	Revocation upon dissolution. Clarifies how a divorce affects a trust that provides for a spouse or the spouse's family.



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